

OGC Has Reviewed

Approved For Release 2001/09/01 : CIA-RDP81-00142R000100050001-8

DD/A Registry

File accounting-5-1

DD/A 79-0814/1

13 APR 1979

MEMORANDUM FOR: Deputy Director for Science & Technology

FROM: Don I. Wortman
Deputy Director for Administration

SUBJECT: [REDACTED] STATINTL

Les:

STATINTL

1. [REDACTED] appealed the Headquarters Claims Review Board's decision that he should not receive reimbursement for damages done to his car while being driven by an unlicensed driver overseas. You STATINTL had penned a note to Jack Blake suggesting that [REDACTED] had a strong case in his favor.

2. After some deliberation and thorough review, I unfortunately found that I could not oppose the finding of the Claims Board and approve the appeal. In looking at both sides of the issue, I felt I had to come down on the interpretation that [REDACTED] was not on government STATINTL business and thus was responsible for the damages to his car. I returned the file to [REDACTED] STATSPEC

/s/ Don Wortman

Don I. Wortman

STATINTL

EO/DDA; [REDACTED] 3 Apr 79

Distribution:

Orig - DDS&T
1 - DDA Chrono
 - DDA Subject
1 - DIW Chrono
1 - RFZ Chrono

CONFIDENTIAL

Approved For Release 2001/09/01 : CIA-RDP81-O-00142R000100050091-0

DD/A Registry

09-0814

21 FEB 1979

DD/A Registry

File Accounting 3-1

MEMORANDUM FOR: Deputy Director for Administration

FROM: 25X1A

Chairman, Headquarters Claims Review Board

SUBJECT: Appeal of Settlement Offer on Personal
Property Claim No. [REDACTED]

25X1A

25X1A

[REDACTED] Claimant (U)

REFERENCE: Memo to C/HCRB fm Claims Officer dtd
31 Aug 78, subj: Personal Property Claim -
25X1A [REDACTED] (OL 8 3643a)

1. Action Requested: Paragraph 4 contains a recommendation for your approval. (U)

2. Background:

a. Synopsis:

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[REDACTED] His claim involves damage to his personally owned vehicle while being operated by a local employee who did not possess an authorized driver's license.

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b. Facts and Evidence:

(1) The facts and evidence considered in adjudicating the claim denial are as stated in paragraph 2 of referenced memorandum. This denial was recommended by the Headquarters Claims Review Board (HCRB) Claims Officer as not being incident to service, concurred in by the DDA and DDO Board Members, and approved by the Chairman, HCRB. No legal objections were interposed by HCRB legal adviser.

OL 9 0160a

DERIVATIVE CL BY 020974

DD/A REGISTRY 24 FEB 1999

DERIVED FROM A9C5.2

WARNING NOTICE

SENSITIVE INTELLIGENCE
AND METHODS

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Claim No. [REDACTED] Claimant (U) 25X1A

25X1A

(2) [REDACTED] was advised circa 13 September 1978 of the HCRB decision and of his right to appeal in accordance with subparagraph (8)(a) of [REDACTED]

25X1A

(3) On 27 November 1978, [REDACTED] elected to appeal the aforementioned decision of the HCRB. This appeal was submitted to the DDA through the Director, [REDACTED] and the Deputy Director for Science and Technology, both recommending approval. On 12 January 1979, the DDA forwarded [REDACTED] appeal to the HCRB for review.

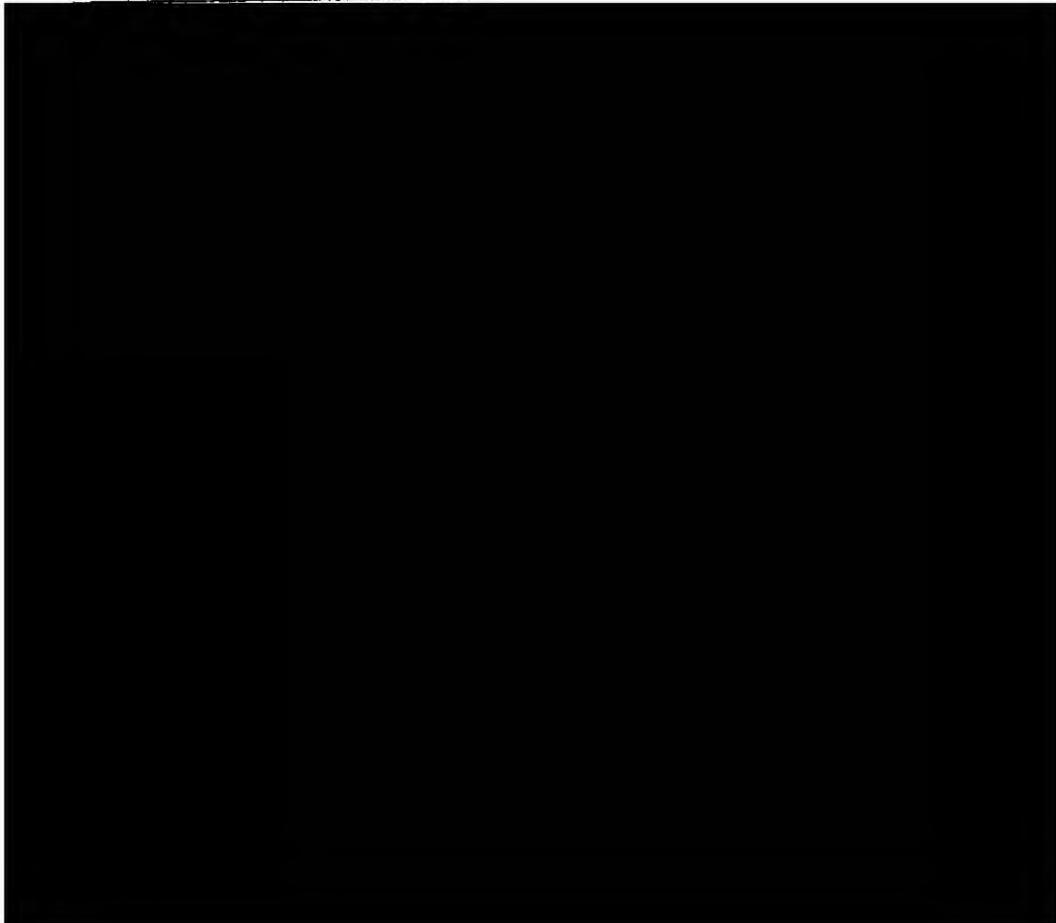
25X1A

STATSPEC

25X1A

c. Policy and Guidelines:

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duty hours will be charged to annual leave, compensatory time, or leave without pay, as appropriate.

(3) Excerpts from other regulatory issuances are cited below:

(a) Title 5, Section 180.105(b)(1),
Code of Federal Regulations - Claims which
arise during the conduct of personal business
are not payable.

[REDACTED]

25X1C

3. Staff Position:

a. Official duty is defined as the "transaction of the public business."

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b. On 8 August 1978, copies of all documentation submitted with [REDACTED] original claim were circulated to all HCRB members requesting their comments and opinions. The responses are excerpted as follows:

(1) DDS&T Member: . . . "Picking up or delivering a POV in connection with an official move in the Agency must be considered personal since we are required to charge annual leave for the official duty time required [REDACTED]. I would therefore assume this to be personal business by Agency standards."

25X1C

(2) DDA Member: "Since [REDACTED] contributed to the problem, we should give him the benefit of any doubt. I guess that is another way of saying, 'Let's pay him.'"

25X1C

(3) DDO Member: . . . "The claimant accepted full responsibility and risk when he turned over his vehicle to the [REDACTED] local employee to operate. While circumstances may have led the

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Claim No. [REDACTED] Claimant (U)
25X1A

claimant to make an assumption regarding the local employee's driving qualifications, the United States Government is not bound by that assumption."

(4) NFAC Member: "I believe this is a legitimate claim and should be paid."

b. It is very readily ascertainable that the original poll of the HCRB resulted in dichotomy of opinion. It is also clear that the DDS&T member zeroed in on the basic requisite necessary to any compensable claim, i.e., "incident to service," while the DDO member directed his attention to the fact that claims will not be allowed when it is determined that the loss or damage was caused wholly or partly by the negligent or wrongful act of the claimant, his agent, or his employee. In this instance, the claimant must show that he took appropriate precautions to protect his private property.

c. Paragraph 2c above clearly regulates and demonstrates what constitutes a nonpayable claim concerning a privately owned vehicle. A valid claim may arise if a vehicle is lost or damaged or otherwise destroyed while being transported at government expense to, from, or between overseas areas. A valid hazard claim for a private vehicle is strictly limited to one arising when the vehicle is being used in the performance of official duty pursuant to appropriate authorization. It should be pointed out that the HCRB has adopted a policy of limiting payments under the latter circumstance to \$200. This policy has been incorporated in a revision of [REDACTED] to 25X1A be published in the near future. Conversely, all other damage or loss regarding the operation of privately owned vehicles is not compensable.

d. The HCRB Claims Officer in preparing the referenced memorandum inadvertently secured the signature of the DDO member rather than the claimant's directorate member as called for in [REDACTED]. Notwithstanding, the DDS&T member was in agreement with the denial as reflected in paragraph 3b(1) above.

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e. In reviewing all the circumstances involved in the original claim submission and the appeal action, it is concluded that the damage to [REDACTED] car caused by the accident on 9 November 1977 was not incident to service. Agency regulations clearly state that activities of a personal nature are not incident to service merely because an employee is overseas on PCS or TDY assignment. They further state that claims for loss of or damage to a privately owned vehicle while it is being used for the convenience of the owner may not be allowed. We can differentiate between personal and official business very easily with "official duty" being the "transaction of the public business."

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[REDACTED]
loss or damage of motor vehicles being used on personal business are not incident to service.

25X1A

f. The HCRB is charged with reviewing all personal property claims in excess of \$100 and settling or recommending settlement in accordance with the provisions of [REDACTED] Guidance and advice given the claimant by his administrative office without prior concurrence of the HCRB, or not in accordance with [REDACTED] is not binding on the HCRB. It is important to note that the HCRB first became aware of [REDACTED] claim on 1 August 1978, some nine months after the accident. In the judgment of the HCRB, no new evidence has been submitted on appeal; consequently, the original decision to deny is confirmed. (U)

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4. Recommendation: It is recommended that the initial judgment of the HCRB to deny [REDACTED] claim be sustained and his appeal rejected. (U) 25X1A

[REDACTED]
25X1A

Att:
Ref

SUBJECT: Appeal of Settlement Offer on Personal Property
Claim No. [REDACTED] Claimant (U)

25X1A

NO LEGAL OBJECTION:

/S/

25X1A

[REDACTED]
Legal Adviser, HCRB

21 Feb 79

Date

CONCURRENCES:

/S/

25X1A

[REDACTED]
DDA Board Member

13 Feb 79

Date

/S/

25X1A

[REDACTED]
NFAC Board Member

13 Feb 79

Date

/S/

25X1A

[REDACTED]
DDO Board Member

13 Feb 79

Date

/S/

25X1A

[REDACTED]
DDS&T Board Member

13 Feb 79

Date

/S/

25X1A

[REDACTED]
DCI Board Member

13 Feb 79

Date

[S] LOR 10/20/79

APPROVED:

Deputy Director for Administration

DISAPPROVED:

Deputy Director for Administration

DATE:

27 NOV 1979

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SUBJECT: Appeal of Settlement Offer on Personal Property [REDACTED] Claimant (U) 25X1A
Claim No. [REDACTED]

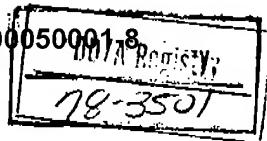
Distribution:

0 - [REDACTED] AS/LOG STATSPEC
2 - DDA
1 - OL/P&PS/HCRB (Official)

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31 AUG 1978

MEMORANDUM FOR: Chairman, Headquarters Claims Review Board

FROM: 25X1A

[REDACTED] Claims Reviewing Officer

SUBJECT:

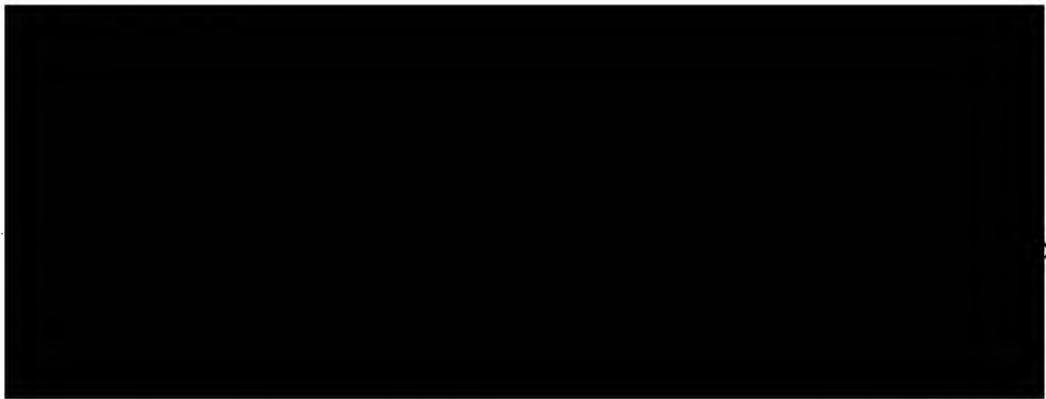
Personal Property Claim -

25X1A

1. Action Requested: Paragraph 4 contains a recommendation for your approval.

2. Background:

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25X1C

25X1A
b. Upon arriving at the insurance firm, [REDACTED] requested the local employee to drive around the block while he conducted his business. The local employee departed driving [REDACTED] car and, while in transit, was involved in an accident. The local employee was determined to be at fault.

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c. Subsequently, [REDACTED] learned that the local employee did not possess a driver's license. Mr. [REDACTED] personal insurance would not honor his claim because the driver of the car was unlicensed. Mr. [REDACTED] has placed a claim with the Agency for \$1,631.29 recovery of his loss.

E2 IMPDET
CL BY 020974

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